

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**IN RE APPLICATION OF:
HUBERT ET AL.**

SERIAL NO. : 10/566,816

FILED: APR. 24, 2006

FOR: CONTAINER

Examiner: Rush, Kareen Kay

Group Art Unit: 4128

ELECTION OF SPECIES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madame:

In reply to the Office Action mailed February 4, 2009, please consider the following remarks.

The Applicant elects species 1 as depicted in Fig. 1 of the current application with traversal on the grounds that examination of the claims with respect to species 2-5 would not be unduly burdensome.

The Applicant respectfully points out that claims 1-8 of the current application are fully encompassed within species 1 and it is submitted that each feature found in claims 1-8 are also found within Fig. 1.

With respect to claim 1, the closing foil that is claimed is present within Fig. 1 of the current application but is merely not visible since Fig. 1 is a bottom perspective view and thus the top of the container cannot be seen.

With regards to claim 3, a ring can be seen on the current apparatus in Fig. 1 and if the container were shown from a side or top perspective view, it would

become apparent that should there be two identical containers stacked on each other, the support elements of the of the first container would rest on the ring of the second container.

Similarly, with regards to claim 8, if the container were shown from a side or top perspective view, it would become apparent that should there be two identical containers stacked on each other the support element of the first container rests on the edge of the mouth opening of the second container.

Applicant respectfully requests advancement of the claims to allowance.

Respectfully submitted,

/Marcus C. Dawes/

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